

EXHIBIT D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE GOOGLE DIGITAL ADVERTISING
ANTITRUST LITIGATION

No. 21-md-3010 (PKC)

This document relates to:

THE STATE OF TEXAS, *et al.*,

Plaintiffs,

- against -

GOOGLE LLC,

Defendant.

No. 21-CV-6841 (PKC)

**THE PLAINTIFF STATES' RESPONSES & OBJECTIONS TO
GOOGLE LLC's FIRST SET OF INTERROGATORIES**

The Offices of the Attorney General for the states of Texas, Arkansas, Florida, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, North Dakota, Puerto Rico, South Carolina, South Dakota, and Utah (collectively, the "Plaintiff States")¹ hereby make the following response to Google LLC's First Set of Interrogatories (the "Interrogatories") under Federal Rule of Civil Procedure 33 ("Federal Rules") and 33.3 of the Local Rules for the U.S. District Court for the Southern District of New York ("Local Rules").

¹ This response is not made on behalf of the State of Alaska who will respond to Google's First Set of Interrogatories separately.

PRELIMINARY STATEMENT

These responses and objections are based on information presently available to the Office of the Attorney General in each of the Plaintiff States and are made without prejudice to, and are not a waiver of, the Plaintiff States' rights to rely on other facts or documents at trial.

The Plaintiff States reserve the right to supplement, clarify, revise, or correct any or all of their responses and objections, and to assert additional objections or privileges, in subsequent supplemental response(s).

No response or objections should be construed as an admission or acknowledgment that an interrogatory calls for information that is relevant to the subject matter of this litigation or proportional to the needs of the case, or that any responsive documents or information would be authentic or admissible at any trial.

GENERAL OBJECTIONS

The Attorneys General for the Plaintiff States object to the Interrogatories to the extent that they attempt to impose any obligation greater than those imposed or authorized by the Federal Rules of Civil Procedure, the Local Civil Rules of the District Court for the Southern District of New York, or any applicable Order of the Court.

The Plaintiff States object to the Interrogatories to the extent that they seek information that is not relevant to this litigation or proportional to the needs of the case.

The Plaintiff States object to the Interrogatories to the extent that they call for information protected by the attorney-client privilege, the deliberative process privilege, the common interest privilege, and/or the attorney work product doctrine.

The Plaintiff States object to the Interrogatories as overbroad and unduly burdensome to the extent that they seek testimony and information from the Plaintiff States that are not within

their possession, custody, or control. The Attorneys General of the Plaintiff States are the entities that brought this action pursuant to their statutory authority to enforce state and federal antitrust and consumer protection laws. This action was not brought by any other public officials, state agencies, government entities, or divisions thereof, and such persons are not parties to this litigation.

The Plaintiff States object to Google's legal conclusion that the Interrogatories are "in Accordance with PTO No.5," and object to the Interrogatories as contrary to PTO No. 5. For example, the Interrogatories contain thirty-one (31) enumerated interrogatories; whereas, PTO No. 5 only allows for twenty-five (25). Additionally, the Plaintiff States object to the use of inappropriately compounded interrogatories that contain multiple distinct and separate subparts.

The Plaintiff States of Arkansas, Florida, Kentucky, Missouri, Montana, Nevada, Puerto Rico, and Utah object to these Interrogatories as not properly served on their respective state. In responding to these Interrogatories, the Plaintiff States of Arkansas, Florida, Kentucky, Missouri, Montana, Nevada, Puerto Rico, and Utah do not concede that they were properly served and reserve all rights due to a party that is not properly served under the Federal Rules or the Local Rules.

OBJECTIONS TO INSTRUCTIONS

Plaintiff States object to the instructions included with Google's Requests for Production to the extent they direct Plaintiff States to interpret words or phrases in a way that is different from their ordinary meaning. Plaintiff States further object to the instructions as vague and ambiguous to the extent they direct Plaintiff States to construe words or phrases differently than they are written or contrary to the ordinary rules of grammar.

OBJECTIONS TO DEFINITIONS

The Plaintiff States object to the definitions included with Google's Interrogatories to the extent that they differ from the meaning of words as they are commonly used, to the extent they differ from the meaning they have as used in industry practice, and to the extent that they differ from the way that they were defined by Plaintiff States in any Civil Investigative Demand related to this litigation or discovery request issued in this litigation. The Attorneys General of the Plaintiffs States will respond to the Interrogatories giving the terms used their ordinary meaning as commonly understood.

The Plaintiff States object to Google's definition of the term "You" or "Your" as misleading, factually incorrect, vague, overbroad, and unduly burdensome. The Plaintiff States further object to the definition to the extent it purports to enlarge, expand, or in any way alter the plain meaning and scope of the Federal Rules of Civil Procedure or seeks to compel Plaintiff States to provide information that is not within the possession, custody, or control of the Offices of the Attorney General of the respective Plaintiff States. Plaintiff States will construe this term to refer to the units, departments, or subdivisions within the Offices of the Attorney General of each respective Plaintiff State.

Plaintiff State specifically object to Google's definition of the term "Relevant Period" as overbroad, unduly burdensome, and disproportional to the needs of the case to the extent it seeks information that is not relevant to any party's claim or defense in this litigation. Plaintiff States will meet and confer with Google to identify a reasonable period for each Request for Production that is relevant to this litigation and proportional to the needs of the case.

RESPONSES & OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1: Identify each and every one of Your state's agencies, entities, divisions, or departments that has used Display Advertising or Ad Tech Products during the Relevant Period.

Response: The Plaintiff States object to this interrogatory as unduly burdensome and disproportional to the needs of the case as it places an undue burden on the responding party that outweighs its expected benefits, and the requesting party's ability to obtain the information is similar or superior to that of the responding party or otherwise not relevant to the facts or claims of this litigation. The Plaintiff States further object to this interrogatory to the extent it seeks information that is not within their possession, custody, or control and reiterate their objection to the definition of "You" stated above. The Plaintiff States are willing to meet and confer with Google to identify responsive information, if any, that is in their possession, custody, or control, that is not more easily obtained from third parties or that can be provided without causing undue burden. Subject to and without waiving the foregoing objections, the Plaintiff States respond:

- The Plaintiff States of Texas, Idaho, and Mississippi attach to these responses as Exhibit "A" a list of contact information for their respective state agencies, which are in a superior position to provide Google with the information it seeks. The Plaintiff States of Texas, Idaho, and Mississippi do not possess knowledge as to whether these entities use display advertising or ad tech products, and such information is not within their possession, custody, or control.
- The Plaintiff State of Missouri, by and through its Attorney General's Office identifies the following link containing a full list of Missouri State Agencies, Departments, Boards, and Commissions:

https://www.mo.gov/search-results?mode=state_agencies).

Information regarding their use of display advertising or display ad products is not within the possession, custody or control of the Missouri Office of the Attorney General. The foregoing link includes contact information for each Missouri Agency, Department, Board, and Commission. Each such Agency, Department, Board, and Commission would be in a superior position to provide Google with the information it seeks.

- The Plaintiff State of Indiana identifies the following links containing a searchable directory identifying staff of Indiana State Agencies, Departments, Boards, and Commissions:

<https://www.in.gov/apps/iot/find-a-person/phonebook/PhoneBook.pdf>
<https://www.in.gov/apps/iot/find-a-person/>

Information regarding their use of display advertising or display ad products is not within the possession, custody or control of the Indiana Office of the Attorney General.

- The Plaintiff State of Louisiana, by and through its Attorney General's Office identifies the following link containing a directory of all Louisiana State Agencies:

<https://www.louisiana.gov/government/agency-directory/#:~:text=Louisiana%27s%20Community%20and%20Technical%20College%20System%20Louisiana%20Division,Administration%20Program%20Louisiana%20Legislature%20Louisiana%20State%20University%20System>

Information regarding their use of display advertising or ad tech products is not within the possession, custody, or control of the Louisiana Office of the Attorney General.

- The Plaintiff State of North Dakota specifically identifies the North Dakota Lottery as the only division of the North Dakota Office of Attorney General that has used display advertising or ad tech products during the Relevant Period.
- The Plaintiff State of Utah, by and through its Attorney General's Office ("Utah AGO") does not have possession, custody, or control of responsive information for any state agency other than the Utah AGO. The Utah AGO identifies the following link containing a full list of Utah State Agencies, Departments, Boards, and Commissions:

<https://www.utah.gov/government/agencylist.html>

- The Offices of the Attorneys General for the Plaintiff States of Arkansas, Florida, Indiana, Kentucky, Louisiana, Mississippi, Montana, Nevada, Puerto Rico, South Carolina, South Dakota and Utah are investigating their own use of display advertising or ad tech products during the Relevant Period and will supplement its response to this interrogatory at a later date once it has obtained sufficient information to make a complete response.
- The Offices of the Attorneys General for the Plaintiff States of Texas, Idaho, Missouri, and Montana have not purchased display advertising or used ad tech products during the Relevant Period.

INTERROGATORY NO. 2: Identify all remedies You seek in this Action, in what capacity (such as *parens patriae* or sovereign capacity) You seek each remedy, and the statutory or other legal basis for each such remedy.

Response: The Plaintiff States object to this interrogatory to the extent it seeks to force a legal conclusion. Further, the Plaintiff States object to this interrogatory as premature given the status of the case and the fact that a significant amount of discovery has yet to occur in this litigation, and to the extent it seeks to compel Plaintiffs to marshal all of their evidence in advance of trial. The Plaintiff States also object on the basis that this request calls for the premature disclosure of expert opinions. Expert disclosures will be made within the time prescribed by the Court's Scheduling Order. The Plaintiff States will supplement responses to this interrogatory at a later date once it has obtained sufficient discovery to make a complete response. Subject to and without waiving the foregoing objections, the Plaintiff States respond:

- The Plaintiff States reserve the right to pursue any allowable remedy under federal or state antitrust law that would restore competition to any market in which Google's conduct is alleged to have anticompetitive effects. The Plaintiff States currently believe that a combination of structural and behavioral remedies are necessary to restore competitive conditions to the affected markets.
- The Plaintiff States reserve the right to pursue any allowable remedy under their respective state laws for Google's deceptive conduct in order to compensate the injured citizens or persons of their state and to deter future deceptive conduct on the part of Google.
- The Plaintiff States seek all available remedies identified in the Third Amended Complaint and identify the legal bases for those remedies articulated in the Third Amended Complaint.

INTERROGATORY NO. 3: Identify all persons answering and supplying information in response to these Interrogatories and all documents You relied on to answer these Interrogatories.

Response: The Plaintiff States object to this interrogatory to the extent it seeks attorney-client or work product privileged information, or to the extent it seeks information not otherwise discoverable under court order. The Plaintiff States will supplement its response to this interrogatory at a later date if it has responsive information. Subject to and without waiving the foregoing objections, the Plaintiff States respond:

- Staff attorneys for the respective Attorneys General of the Plaintiff States or outside counsel representing certain of the Attorneys General of the Plaintiff States were involved in preparing these responses.
- The Plaintiff State of Florida specifically responds that it consulted with its internal Information Technology staff in formulating these responses.

INTERROGATORY NO. 4: Identify all injured persons or categories of persons on whose behalf You as *parens patriae* seek monetary relief (including, where applicable, restitution, disgorgement, civil penalties, civil fines, or damages) in this Action, and for each person or category of persons state the following:

- a. whether the person is a natural person or legal entity;
- b. how the person has used Display Advertising or Ad Tech Products, including whether the person is a Publisher, Advertiser, or consumer;
- c. the person's state of residence, organization, or incorporation;
- d. if applicable, the person's principal place of business;
- e. the nature of the person's injury; and
- f. the specific monetary relief You seek as a result of the person's injury.

Response: The Plaintiff States object to this interrogatory as unduly burdensome and disproportional to the needs of the case as it places an undue burden on the responding party that outweighs its likely benefits, and the requesting party's ability to obtain the information is similar to that of the responding party. Plaintiff States also object to this Request to the extent that it implies that the identification of specific persons is a necessary element of a *parens patriae* claim. Further, the Plaintiff States object to this interrogatory is premature given the status of the case and the fact that a significant amount of discovery has yet to occur in this litigation, and to the extent it seeks to compel Plaintiff States to marshal all of their evidence in advance of trial. The Plaintiff States also object on the basis that this request calls for the premature disclosure of expert opinions. Expert disclosures will be made within the time prescribed by the Court's Scheduling Order. Subject to and without waiving the foregoing objections, the Plaintiff States respond:

- The Plaintiff States of Florida, Idaho, Mississippi, and Missouri seek to recover as *parens patriae* on behalf of all consumers or persons located within their respective jurisdictions that have paid higher prices for goods and services as the result of Google's anticompetitive conduct toward advertisers that increased the cost of advertising and thereby the cost of goods and services purchased.
- The Plaintiff States of Florida, Idaho, Mississippi, and Missouri seek to recover as *parens patriae* on behalf of all consumers or persons located within their respective jurisdictions that have been forced to pay for or suffered lower quality of internet

content as a result of Google's anticompetitive conduct toward publishers that reduced revenue to publishers.

- The Plaintiff States of Florida, Idaho, Mississippi, Missouri, and North Dakota seek to recover as *parens patriae* on behalf of all consumers or persons located in their respective jurisdictions that have paid higher prices for goods and services and for internet content or suffered lower quality of internet content as a result of Google's unlawful, unfair, or deceptive trade practices.
- The Plaintiff States of Florida, Idaho, Mississippi, Missouri, and North Dakota seek to recover as *parens patriae* on behalf of all consumers or persons located in their respective jurisdictions that have had their data unlawfully misappropriated by Google.
- The Plaintiff State of Utah Office of the Attorney General is investigating these claims and reserves the right to bring a claim on behalf of natural persons located in the State of Utah under its *parens patriae* authority as set forth in Utah Code §76-10-3108(1) and will supplement its response to this interrogatory at a later date once it has obtained sufficient information to make a complete response.

INTERROGATORY NO. 5: Identify and quantify all harm to the general welfare and the economy of Your state for which You seek monetary relief (including, where applicable, restitution, disgorgement, civil penalties, civil fines, or damages) in this Action, and specify the particular relief You seek for each such harm.

Response: The Plaintiff States object to this interrogatory as unduly burdensome and disproportional to the needs of the case as it places an undue burden on the responding party that outweighs its likely benefits. Further, the Plaintiff States object to this interrogatory as premature given the status of the case and the fact that a significant amount of discovery has yet to occur in this litigation, and to the extent it seeks to compel Plaintiff States to marshal all of their evidence in advance of trial or to the extent that it seeks to compel a legal conclusion. The Plaintiff States also object on the basis that this request calls for the premature disclosure of expert opinions. Expert disclosures will be made within the time prescribed by the Court's Scheduling Order. Subject to and without waiving the foregoing objections, the Plaintiff States will supplement their responses to this interrogatory at a later date once they have obtained sufficient discovery to make a complete response.

INTERROGATORY NO. 6: Identify all injunctive or structural relief You seek in this Action, including a description of:

- a. the specific relief sought;

- b. the applicable relevant market;
- c. the assets or Ad Tech Product(s) You expect to be impacted;
- d. the proposed duration of the relief; and
- e. how each type of relief sought would “restore competitive conditions in the relevant markets” as alleged in Paragraph 683(c)-(d) of the Third Amended Complaint.

Response: The Plaintiff States object to this interrogatory to the extent it seeks to compel a legal conclusion. Further, the Plaintiff States object to this interrogatory as premature given the status of the case and the fact that a significant amount of discovery has yet to occur in this litigation, and to the extent it seeks to compel the Plaintiff States to marshal all of their evidence in advance of trial. The Plaintiff States also object on the basis that this request calls for the premature disclosure of expert opinions. Expert disclosures will be made within the time prescribed by the Court’s Scheduling Order. Subject to and without waiving the foregoing objections, the Plaintiff States will supplement their response to this interrogatory at a later date once they have obtained sufficient discovery to make a complete response.

INTERROGATORY NO. 7: Identify the “data and information unlawfully taken from consumers by means of deceptive trade practices” for which You seek disgorgement in Paragraph 683(g) of the Third Amended Complaint, and describe how such disgorgement is to be effected and implemented.

Response: The Plaintiff States object to this interrogatory as unduly burdensome and disproportional to the needs of the case as it places an undue burden on the responding party that outweighs its expected benefits and the requesting party’s ability to obtain the information is similar or superior to that of the responding party. The Plaintiff States also object on the basis that this request calls for the premature disclosure of expert opinions. Expert disclosures will be made within the time prescribed by the Court’s Scheduling Order. Subject to and without waiving the foregoing objections, the Plaintiff States respond:

- The Third Amended Complaint refers to data collected from users of Google products and data that Google requires publishers and advertisers to give Google about users collected from their visit to and participation on a publisher’s webpage as being unlawfully and deceptively taken from internet users by Google.

INTERROGATORY NO. 8: Identify with particularity each and every act, practice, or statement by Google that You allege to have been unfair or deceptive. As part of your response, identify all documents on which you relied on to respond to this Interrogatory.

Dated: March 13, 2023

Respectfully submitted,

/s/ Ashley Keller

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I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge as it applies to the State of Texas.

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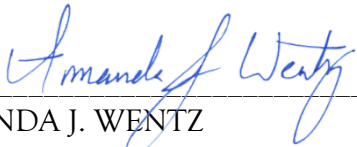
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FOR PLAINTIFF STATE OF NEVADA:

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STATE OF NORTH DAKOTA

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Attorney for Plaintiff State of South Dakota

FOR PLAINTIFF STATE OF UTAH:

I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge as it applies to the State of Utah.

Sean D. Reyes
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